

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN THE MATTER OF:	:	CASE NUMBER
	:	
SAMUEL ADAM BUSH,	:	05-93104-WHD
	:	
	:	IN PROCEEDINGS UNDER
	:	CHAPTER 13 OF THE
DEBTOR.	:	BANKRUPTCY CODE

ORDER

Before the Court is the Motion for Stay Pending Appeal (hereinafter the "Motion") filed by Samuel Adam Bush, the debtor in the above-captioned bankruptcy case (hereinafter the "Debtor"). On July 22, 2005, the Debtor filed a Notice of Appeal of an order entered by this Court on July 14, 2005 (hereinafter the "Lift Stay Order"), which denied the Debtor's Motion for Recusal and granted the motion for relief from the automatic stay filed by Washington Mutual Bank, NA (hereinafter the "Bank"). On July 22, 2005, the Debtor filed the instant motion seeking a stay of the Lift Stay Order pending the resolution of his appeal.

Pursuant to Federal Rule of Bankruptcy Procedure 8005, a stay pending appeal may be granted if: "1) . . . the movant has shown a likelihood of success on the merits; 2) . . . the movant has made a showing of irreparable injury if the stay is not granted; 3) . . . the granting of the stay would substantially harm the other parties; and 4) . . . the granting of the stay would serve the public interest." *In re Gulf States Steel, Inc. of Alabama*, 285 B.R. 739 (Bankr. N.D. Ala. 2002). "The moving party must show satisfactory evidence on all four criteria." *In re Bilzerian*, 276 B.R. 285 (M.D. Fla. 2002). After considering the Debtor's motion, the Court concludes that the Debtor has failed to

establish the necessary requirements for obtaining a stay pending appeal.

The Court cannot find that the Debtor has made a showing of a likelihood of success on the merits. In support of his motion, the Debtor has simply argued that the Court has accepted "a financial payoff to throw" his bankruptcy case. The Debtor therefore relies on the same argument raised in his Motion for Recusal and his response to the Bank's Motion for Relief from Stay. The Court has already rejected this argument as being false and unfounded.

The Debtor has alternatively requested a 10-day temporary stay of the Lift Stay Order to enable the Debtor to seek a stay pending appeal from the United States District Court. This requested shall be granted. Based on the foregoing, it is **ORDERED, ADJUDGED, and DECREED** that:

1. The Debtor's Motion for Stay Pending Appeal is **DENIED**.
2. The Lift Stay Order shall be temporarily stayed for 10 days following the entry of this Order. In accordance with the temporary stay, the Court shall not consider the matter of confirmation of the Debtor's proposed Chapter 13 plan, a hearing on which is scheduled for August 8, 2005. At the expiration of the 10-day period, if the United States District Court has not stayed the Lift Stay Order, the Court will reset the confirmation hearing.

IT IS SO ORDERED.

At Atlanta, Georgia, this _____ day of August, 2005.

W. HOMER DRAKE, JR.
UNITED STATES BANKRUPTCY JUDGE